

§ 143-215.104H. (Expires January 1, 2022 – see notes) Dry-Cleaning Solvent Assessment Agreements.

(a) Assessment Agreements. – One or more potentially responsible parties may petition the Commission to enter into a dry-cleaning solvent assessment agreement regarding a facility or abandoned site that has been certified pursuant to G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment agreement with any potentially responsible party who satisfies the requirements of this section and the applicable requirements of G.S. 143-215.104F. If more than one potentially responsible party petitions the Commission, the Commission may enter into a single assessment agreement with one or more of the petitioners. The Commission shall not unreasonably refuse to enter into an assessment agreement pursuant to this section. The Commission may require the petitioners to provide the Commission with any information necessary to demonstrate:

- (1) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission.
- (2) through (4a) Repealed by Session Laws 2007-530, s. 5, effective August 31, 2007.
- (5) The petitioner has and will continue to have available the financial resources necessary to pay the share of response costs imposed on the petitioner by G.S. 143-215.104F.
- (6) The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.
- (7) The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.
- (8) Repealed by Session Laws 2007-530, s. 5, effective August 31, 2007.
- (9) The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

(b) The terms and conditions of an assessment agreement regarding dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the disbursement authorities and limitations set out in this Part. An assessment agreement shall, subject to the availability of monies from the Fund:

- (1) Repealed by Session Laws 2000, ch. 19, s. 9, effective June 26, 2000.
- (1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount for which the petitioner is responsible under G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and that are otherwise consistent with the requirements of this Part.
- (2) Repealed by Session Laws 2007-530, s. 5, effective August 31, 2007.

(c) The Commission may refuse to enter into a dry-cleaning solvent assessment agreement with any petitioner if:

- (1) The petitioner will not accept financial responsibility for the petitioner's share of the response costs required by G.S. 143-215.104F.
- (2) Repealed by Session Laws 2007-530, s. 5, effective August 31, 2007.
- (3) The petitioner fails to provide any information required by subsection (a) of this section.

(d) The refusal of the Commission to enter into a dry-cleaning solvent assessment agreement with any petitioner shall not affect the rights of any other petitioner under this Part, except that the refusal may be the basis for rejection of a petition by any parent, subsidiary or other affiliate of the petitioner for the facility or abandoned site.

(e) If the Commission determines from an assessment prepared pursuant to this Part that the degree of risk to public health or the environment resulting from dry-cleaning solvent contamination otherwise subject to assessment or remediation under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the Commission shall issue a written statement of its determination and notify the owner or operator of the facility or abandoned site responsible for the contamination that no cleanup, no further cleanup, or no further action is required in connection with the contamination.

(f) If the Commission determines that no remediation or further action is required in connection with dry-cleaning solvent contamination otherwise subject to assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the Commission shall not pay any costs otherwise payable under this Part from the Fund other than costs reasonable and necessary to conduct the risk assessment pursuant to this section and in compliance with a dry-cleaning solvent assessment agreement. (1997-392, s. 1; 2000-19, s. 9; 2007-530, s. 5.)